

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Date 1-3-13

NOEL JACKSON GUZMAN,

Plaintiff,

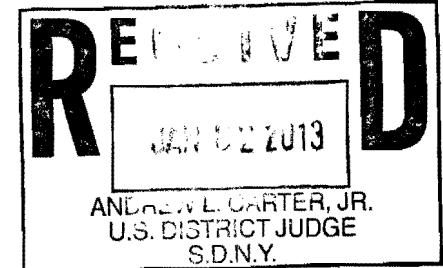
-against-

THE CITY OF NEW YORK, P.O. BRIAN JAY, Shield No. 29733, Individually and in his Official Capacity, P.O. JOHNNY DIAZ, Shield No. 31661, Individually and in his Official Capacity, and P.O.s "JOHN DOE" #1-10, Individually and in their Official Capacities, (the name "John Doe" being fictitious, as the true names are presently unknown),

Defendants.

**STIPULATION OF PARTIAL
DISMISSAL AND
WITHDRAWAL**

10-cv-06353 (ALC)(JCF)



WHEREAS, plaintiff commenced this action by filing a complaint on or about August 25, 2010, alleging that defendants violated plaintiff's federal civil rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve certain issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, pursuant to Rule 41(a)(1)(A)(ii), as follows:

1. Any and all claims asserted against JOHNNY DIAZ are dismissed with prejudice and without costs, expenses or fees;
2. While, based on the terms of paragraph "1" *supra*, JOHNNY DIAZ is no longer a party to this action, Johnny Diaz hereby agrees to designate the New York City Law

Department, located at 100 Church Street, 4th Floor, New York, New York 10007, as his agent solely for purposes of accepting service of a subpoena to testify at trial in this matter;

3. Any and all claims asserted against the JOHN DOE defendants, are dismissed with prejudice and without costs, expenses or fees;

4. Any and all claims under §1983 for Equal Protection Under the Law, listed in the amended complaint as the sixth claim for relief in paragraphs 37C, are dismissed with prejudice and without costs, expenses or fees;

5. Any and all claims under §1983 for Unlawful Search, listed in the amended complaint as the sixth claim for relief in paragraphs 44-47, are dismissed with prejudice and without costs, expenses or fees;

6. Any and all claims under §1983 for Malicious Prosecution, listed in the amended complaint as the sixth claim for relief in paragraphs 48-63, are dismissed with prejudice and without costs, expenses or fees;

7. Any and all claims under §1983 for Malicious Abuse of Process, listed in the amended complaint as the sixth claim for relief in paragraphs 64-68, are dismissed with prejudice and without costs, expenses or fees;

8. Any and all claims under §1983 for Municipal Liability, listed in the amended complaint as the sixth claim for relief in paragraphs 69-79, are dismissed with prejudice and without costs, expenses or fees;

9. Any and all claims under §1983 for Deliberate Indifference to Medical Needs, listed in the amended complaint as the sixth claim for relief in paragraphs 80-94, are dismissed with prejudice and without costs, expenses or fees;

10. Any and all claims under §1983 or §1985 for Conspiracy, listed in the amended complaint as the sixth claim for relief in paragraphs 95-100, are dismissed with prejudice and without costs, expenses or fees;

11. As against Brian Jay, plaintiff maintains the following causes of action and only the following causes of action:

§1983 Claim for False Arrest; and
§1983 Claim for Excessive force.

12. The parties also agree that the caption of the complaint shall be amended to omit any reference to the City of New York, Johnny Diaz, and the John Doe defendants.

LAW OFFICES OF JON L. NORINSBERG
Attorneys for Plaintiff
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(212) 791-5396

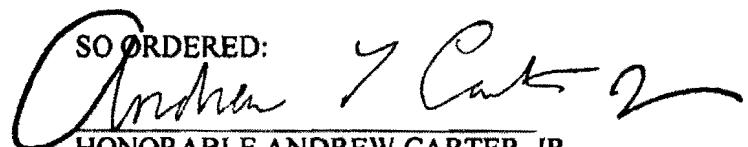
By: 
Jon Louis Norinsberg
Attorneys for Plaintiff

Dated: New York, New York
_____, 2012

MICHAEL A. CARDODOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007

By: 
Morgan D. Kuhnz
Senior Counsel

Dated: New York, New York
1/2, 2013

SO ORDERED:

HONORABLE ANDREW CARTER, JR.
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
Jan. 3, 2013